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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
FRANK, NOAH S				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 1/29/09 have been fully considered but they are not persuasive.

In response to applicant's arguments that Bruchmann indicates a preference that the dispersions be free of solvent (§0085), a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments. MPEP 2123. Additionally, Bruchmann teaches that, "if a solvent has been used in preparing the polyurethane, it is usual to remove the majority of the solvent from the dispersion, for example by distillation under reduced pressure. The dispersions preferably have a solvent content of less than 10%..." (§0085). Even if Bruchmann distilled off all of the solvent, the combination would still read over the claimed invention.

In response to applicant's arguments that Bruchmann and Galan are nonanalogous art, both are drawn to polyurethane products. The fact that one is applied via an aqueous dispersion and the other is foamed is irrelevant. The only difference between a foamed polyurethane versus a coating applied via an aqueous dispersion is the presence of bubbles inside the polyurethane. Chemically, they are both polyurethanes, and the skilled artisan would have a reasonable expectation of success that the solvent of Galan would still produce the same effect, namely good cold

temperature flexibility. Furthermore, this is also one of the reasons that the instant invention uses the claimed solvents (16:24-34).

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOAH FRANK whose telephone number is (571)270-3667. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/  
Supervisory Patent Examiner, Art Unit 1796

NF  
1-30-09